

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

BARBARA HEWIETT AND MICHAEL
JENKINS, on behalf of and as
parents and natural guardians of
DESTINY HEWIETT, a minor,

Petitioners,

vs.

Case No. 15-1220N

FLORIDA BIRTH-RELATED
NEUROLOGICAL INJURY COMPENSATION
ASSOCIATION,

Respondent,

and

SHANDS LAKE SHORE REGIONAL
MEDICAL CENTER,

Intervenor.

_____ /

FINAL ORDER APPROVING STIPULATION FOR ENTRY OF AWARD

This cause came on for consideration pursuant to sections 766.304 and 766.305(7), Florida Statutes, upon the Stipulation and Joint Petition for Compensation of Claim Arising out of Florida Birth-Related Neurological Injury Pursuant to Chapter 766, Florida Statutes (Stipulation and Joint Petition), filed with the Division of Administrative Hearings on August 31, 2015, for the entry of an order approving the resolution of a claim for compensation benefits filed in accordance with the provisions of

chapter 766 and a resolution of the exclusive remedy otherwise available as outlined in chapter 766.

By the terms of their stipulation, Petitioners, Barbara Hewiett and Michael Jenkins, on behalf of and as parents and natural guardians of Destiny Hewiett, a minor, and Respondent, the Florida Birth-Related Neurological Injury Compensation Association (NICA), have agreed that Barbara Hewiett and Michael Jenkins are the parents and legal guardians of Destiny Hewiett (Destiny), a minor; that Destiny was born a live infant on or about November 5, 2012, at Shands Lake Shore Regional Medical Center, a "hospital" as defined by section 766.302(6) located in Lake City, Florida; and that Destiny's birth weight exceeded 2,500 grams. The Parties have further agreed that Daina Green, M.D., provided obstetrical services at Destiny's delivery and was a "participating physician" in the Florida Birth-Related Neurological Injury Compensation Plan, as defined by section 766.302(7). The Parties have agreed that Destiny suffered a "birth-related neurological injury," as that term is defined by section 766.302(2), which was the sole and proximate cause of Destiny's current medical condition.

It is ORDERED:

1. The Stipulation and Joint Petition filed on August 31, 2015, is hereby approved, and the Parties are directed to comply with the provisions of the Stipulation and Joint Petition.

2. Petitioners, Barbara Hewiett and Michael Jenkins, as the parents and legal guardians of Destiny Hewiett, a minor, are awarded one hundred thousand dollars (\$100,000.00), pursuant to section 766.31(1)(b)1., to be paid as periodic payments to the parents; payment of benefits up to and including the effective date of the Joint Stipulation and Petition pursuant to section 766.31(1)(a), subject to the provisions of paragraph 19 of the Stipulation and Joint Petition; and payments of future expenses as incurred.

3. NICA will reimburse Michelle L. Davis, Esquire, attorney for Petitioners, an agreed-upon attorney's fee of \$10,000.00 and expenses of \$913.12, totaling \$10,913.12 in full for services rendered in the filing of this claim.

4. Upon the payment of the award of \$100,000.00, past benefit/expenses, and \$10,913.12 for attorney's fees and costs, the claim of Petitioners shall be deemed fully satisfied and extinguished, except for Respondent's continuing obligation under section 766.31(2) to pay future expenses as incurred.

5. The Division of Administrative Hearings retains jurisdiction over this matter to resolve any disputes, should they arise, regarding the Parties' compliance with the terms of this Order.

DONE AND ORDERED this 3rd day of September, 2015, in
Tallahassee, Leon County, Florida.



BARBARA J. STAROS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 3rd day of September, 2015.

COPIES FURNISHED:
(via certified mail)

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NOTICE OF RIGHT TO JUDICIAL REVIEW

Review of a final order of an administrative law judge shall be by appeal to the District Court of Appeal pursuant to section 766.311(1), Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy, accompanied by filing fees prescribed by law, with the clerk of the appropriate District Court of Appeal. See § 766.311(1), Fla. Stat., and Fla. Birth-Related Neurological Injury Comp. Ass'n v. Carreras, 598 So. 2d 299 (Fla. 1st DCA 1992).